

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-77877; File No. SR-BOX-2016-22)

May 20, 2016

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to amend BOX Rule 12140 (Imposition of Fines for Minor Rule Violations) to amend the sanctions for Quotation Parameters and permit the aggregation of violations for the purpose of determining what is an occurrence

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on May 11, 2016, BOX Options Exchange LLC (the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend BOX Rule 12140 (Imposition of Fines for Minor Rule Violations) to amend the sanctions for Quotation Parameters and permit the aggregation of violations for the purpose of determining what is an occurrence. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission’s Public Reference Room and also on the Exchange’s Internet website at <http://boxexchange.com>.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend BOX Rule 12140 (Imposition of Fines for Minor Rule Violations) to amend the sanctions for Quotation Parameters (Rule 12140(d)(5)) and permit the aggregation of violations for the purpose of determining what is an occurrence.

The purpose of the proposed rule change is to amend the sanctions that relate to Rule 8040(a)(7) regarding spread parameters for Market Maker quotations under the Exchange's Minor Rule Violation Plan or ("MRVP"). BOX Rule 8040(a)(7)³ governs quotation parameters which establish the maximum permissible width between the bid and offer in a particular series.⁴ The Exchange believes the proposed rule changes [sic] will add clarity as to what is considered a violation with respect to these quotation parameters under the MRVP.

First, the Exchange proposes to amend the sanctions applicable to violations of Rule 8040(a)(7) pursuant to the Exchange's MRVP which are laid out in BOX Rule 12140(d)(5). The sanctions would now consist of Letters of Caution respecting the first three occurrences and three fines thereafter (\$250, \$500 and \$1,000), before the seventh occurrence would result in referral to the Hearing Committee for disciplinary action. In addition, the fine schedule would be administered on a one year running calendar basis, such that violations within one year of the last occurrence would count as the next "occurrence". The Exchange then proposes

³ The Exchange's MRVP consists of preset fines, pursuant to Rule 19d-1(c) under the Act 17 CFR 240.19d-1(c).

⁴ See Rule 8040(a)(7). The Exchange sets the maximum width at no more than \$5 between the bid and offer.

to add language that will allow BOX to aggregate individual quotation violations and treat such violations as a single offense.

The Exchange believes that these changes are appropriate because quoting on the Exchange is entirely electronic. Specifically, firms rely on their quote technology and computer models to establish an option's price and generate the quote electronically to the Exchange. The Exchange believes when there is an electronic quoting error, it may affect every series the Participant is quoting on in that particular technology, generating potentially hundreds or thousands of instances of quote spread parameter violations within a short amount of time. Rather than fine the Participant for or submit each event to Formal Disciplinary Action for an isolated technological error, the proposed changes would allow the Exchange to treat an electronic quoting error as single occurrence by aggregating the violations.⁵ The Exchange notes that due to the nature of quotation parameter violations, aggregation is a common practice in the options industry.⁶ Under the proposed rule change a Market Maker on BOX would in most instances receive a Letter of Caution before being subject to a sanction. The Exchange believes this is appropriate because the relevant Letters of Caution or monetary fines should serve as a deterrent against future violations, while recognizing that a single programming error can have widespread effect. Further, the Exchange believes that sanctions on quotation parameter violations should not be considered [sic] excessively punitive; as this could

⁵ The Exchange notes that there is very little advantage to a Market Maker quoting wide, when this happens they are no longer considered part of the marketplace and any incoming orders will go elsewhere.

⁶ The Minor Rule Violation Plans at most options exchanges allow for aggregation of quotation parameter violations and EDGX recently filed to add this language as well. See Securities Exchange Act Release No. 77181 (February 19, 2016), 81 FR 9566 (February 25, 2016) (Notice of Filing and Immediate Effectiveness SR-EDGX-2016-03).

encourage a Market Maker [sic] only meet its minimum quoting requirements, which would remove liquidity from the exchange.

As with other violations covered under the Exchange's MRVP, the Exchange may elect to forgo the MRVP and enforce any egregious violation of its rules under the Exchange's formal disciplinary process.

The Exchange notes that the proposed rule change is substantially similar to the rules of the NASDAQ OMX PHLX, Inc. ("Phlx") and the sanctions that relate to the spread parameters for Market Maker quotations on PHLX.⁷

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Securities Exchange Act of 1934 (the "Act"),⁸ in general, and Section 6(b)(5) of the Act,⁹ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. In particular, the Exchange believes that its proposal is consistent with Sections 6(b)(1) and (6) of the Act,¹⁰ which require that the rules of an exchange enforce compliance with, and provide appropriate discipline for, violations of Commission and Exchange rules. In addition, because existing BOX Rule 12140 provides procedural rights to a person fined under the Exchange's MRVP to contest the fine and permits a hearing on the

⁷ See PHLX Rule 1014(c)(i)(A) [sic] and Securities Exchange Act Release No. 62147 (May 21, 2010), 75 FR 29792 (Order Approving SR-Phlx-2010-43).

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

¹⁰ 15 U.S.C. 78f(b)(1) and (6).

matter, the Exchange believes that the proposal is consistent with Sections 6(b)(7) and 6(d)(1) of the Act,¹¹ by providing a fair procedure for the disciplining of Participants and persons associated with Participants.

In requesting the proposed changes to the sanctions under BOX Rule 12140(d)(5), the Exchange in no way minimizes the importance of compliance with Exchange Rules and all other rules subject to the imposition of fines under the MRVP. However, the MRVP provides a reasonable means of addressing rule violations that do not rise to the level of large sanctions and requiring formal disciplinary proceedings, while providing greater flexibility in handling certain violations. The Exchange will continue to conduct surveillance with due diligence and make a determination based on its findings, on a case-by-case basis, whether a fine of more or less than the recommended amount is appropriate for a violation under the MRVP or whether a violation requires a formal disciplinary action.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In this regard and as indicated above, the Exchange notes that the rule change is being proposed is similar to the rules of PHLX.¹² The Exchange believes that the proposals will provide Participants protection from minor rule violation sanctions that are a result of electronic quoting errors. The proposed rule change is meant to take into account the possibility of programming or technology errors that result in a Participant violating the quote parameters set out in the Rule 8040(a)(7). The proposed rule change will enable Participants to enter quotes without fear of hundreds or thousands of minor rule violations, which in turn will benefit investors through increased

¹¹ 15 U.S.C. 78f(b)(7) and (d)(1).

¹² See supra, note 7.

liquidity on the exchange. While the Exchange believes that the proposed Letters of Caution and subsequent fines should serve as a deterrent against future violations, the Exchange may determine whether a violation is not minor in nature and thereafter refer it to the Hearing Committee for disciplinary action.¹³

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act¹⁴ and subparagraph (f)(6) of Rule 19b-4 thereunder.¹⁵

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of filing.¹⁶ Rule 19b-4(f)(6)(iii), however, permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest.¹⁷ The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative upon filing. The Exchange has stated that the proposed rule change is substantially similar to the rules of Phlx, in particular, the sanctions for violations of the spread parameters for Market Maker quotations. Waiver of the 30-

¹³ See Rule 12140(a).

¹⁴ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁵ 17 CFR 240.19b-4(f)(6).

¹⁶ 17 CFR 240.19b-4(f)(6)(iii).

¹⁷ Id.

day operative delay will allow BOX to aggregate violations of its spread parameter rule under its MRVP without delay. Furthermore, the Commission notes that the Exchange's MRVP and quote spread parameter rules are already in place; waiver will clarify the Exchange's expectations of its Participants. For these reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission designates the proposed rule change to be operative upon filing.¹⁸

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-BOX-2016-22 on the subject line.

¹⁸ For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

Paper comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-BOX-2016-22. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer

to File Number SR-BOX-2016-22, and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁹

Robert W. Errett
Deputy Secretary

¹⁹ 17 CFR 200.30-3(a)(12).